

**JOINT PROJECT AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
LEON COUNTY, FLORIDA**

CONCERNING THE ADVANCED FUNDING FOR THE ACQUISITION OF RIGHT-OF-WAY FOR MULTI-LANE RECONSTRUCTION OF STATE ROAD 10 (U.S. 90) FROM COUNTY ROAD 0353 (DEMPSEY MAYO) TO WALDEN ROAD.

This Agreement is made and entered into this 7th day of June, 2002, by and between the State of Florida, Department of Transportation, hereinafter called the DEPARTMENT, whose mailing address is Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32304 and Leon County, Florida, a political subdivision of the State of Florida, hereinafter called the COUNTY, whose mailing address is 301 South Monroe Street, Room 202, Tallahassee, Florida 32301.

WITNESSETH

WHEREAS, the COUNTY AND DEPARTMENT desire to make certain improvements on State Road 10 (US 90) from County Road 0353 (Dempsey Mayo) to Walden Road including multi-lane reconstruction; and

WHEREAS, it will be necessary to acquire right-of-way for said multi-lane reconstruction; and

WHEREAS, the COUNTY has requested that the DEPARTMENT administer said right-of-way acquisition, hereinafter called the PROJECT; and

WHEREAS, the DEPARTMENT is prepared to begin funding said PROJECT in State fiscal year 2008 FM No.219843 1; and

WHEREAS, said PROJECT is on the State Highway System and is not revenue producing; and

WHEREAS, to expedite the PROJECT in advance of the DEPARTMENT'S schedule, the COUNTY is prepared to provide advanced funding of the PROJECT; and

WHEREAS, the performance of the PROJECT is in the interest of both the DEPARTMENT and the COUNTY and it would be most practical, expeditious, and economical for the COUNTY to provide advanced funds for the PROJECT; and

WHEREAS, the Board of County Commissioners of Leon County, meeting in regular session on the 14th day of MAY, 2002, has authorized the Chairman of the Leon County Commission to enter into this Agreement; and

FURTHER WHEREAS, the parties are authorized to enter into this agreement under law, specifically but not limited to, the provisions of Section 339.12 Florida Statutes 2000;

NOW THEREFORE, in consideration of these premises and the covenants contained herein, the parties agree to the following:

1. The DEPARTMENT'S preliminary estimate of the right-of-way acquisition costs, which include fees and costs of owners and the DEPARTMENT, is *six million nine hundred thirty eight thousand dollars (\$6,938,000)*. The actual cost of right of way and the DEPARTMENT's and owners' fees and costs are not bid and are not negotiated under the Consultant's Competitive Negotiation Act.
- 2.A. The COUNTY agrees that it will, at least fourteen (14) calendar days prior to the DEPARTMENT's proceeding with the project, furnish the DEPARTMENT an advance deposit in the amount of *six million nine hundred thirty eight thousand dollars (\$6,938,000)* for full payment of the estimated project cost for locally funded project # 219843 1. The advance deposit shall be the total estimated right-of-way acquisition cost. The DEPARTMENT may utilize this deposit for payment of the costs of the project.
- B. If at any time, prior to the parties electing to proceed in accordance with the following sentence, the DEPARTMENT determines that right-of-way acquisition costs will exceed the *six million nine hundred thirty eight thousand dollars (\$6,938,000)* estimate, the DEPARTMENT shall prepare a revised estimate. The DEPARTMENT shall notify the COUNTY of the revised estimate and each party shall notify the other within twenty-one (21) days of whether or not it elects to proceed.
 - (a) If the COUNTY elects not to continue, the PROJECT may be postponed until the additional funding is made available.
 - (b) If the COUNTY elects to continue, it shall provide an additional deposit for the DEPARTMENT'S revised estimate increase. The additional deposit shall be made within thirty (30) calendar days after the parties elect to proceed. After deposit is made, the DEPARTMENT shall proceed with the PROJECT.
 - (c) Notwithstanding any other provisions of this agreement and because litigation of a right of way parcel, once begun, cannot be dismissed at DOT's

discretion, if at any time during the project the department determines that the funds deposited will not be adequate to pay fees, costs, and court orders incurred as a result of condemnation litigation, the COUNTY shall make the additional deposit necessary to pay the fees, cost, and court orders, regardless of the amounts previously deposited or expended.

- C. Copies of Notices and/or invoices, which are directed to the COUNTY, shall be sent to Director of Public Works, Michael Willett, 2280 Miccosukee Road, Tallahassee, Florida 32308.
3. The payment of funds by the COUNTY required above shall be deposited as provided in the attached Memorandum of Agreement between COUNTY, and State of Florida Department of Insurance, Division of Treasury. Interest accrued and received shall be treated as funds advanced by the COUNTY for project funding purposes.
 4. Upon final payment for the entire PROJECT the DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within one hundred eighty (180) days. All project cost records and accounts shall be subject to audit by a representative of the COUNTY for a period of three years after final close out of the project. The COUNTY will be notified of the final cost. Both parties agree that in the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the COUNTY in accordance with Section 215.422, Florida Statutes (1999). In the event said final accounting of the total project costs is greater than the total deposits to date, the COUNTY will pay the additional amount within forty calendar days from the date of the invoice. The COUNTY agrees to pay interest at a rate established pursuant to Section 55.03, Florida Statutes (1999), on any invoice not paid within the time specified in the preceding sentence until the invoice is paid.
 5. In State fiscal year 2008, the DEPARTMENT agrees to reimburse the COUNTY by lump sum payment.
 6. In the event it becomes necessary for any party to institute suit against another party for the enforcement of the provisions of this AGREEMENT, the prevailing party is entitled to reasonable attorneys' fee plus court costs. Also in the event of litigation, the parties agree that the Laws of the State of Florida shall apply.
 7. The DEPARTMENT agrees to keep complete records and accounts in order to record complete and correct entries as to all costs, expenditures, and other items incidental to the PROJECT. The COUNTY reserves the right to conduct any necessary audit of the records pertaining to this Agreement.

8. The COUNTY will be entitled at all times to be advised, upon request, as to the status of work being done by the DEPARTMENT and of the details thereof. Any party to the Agreement may request and be granted a conference.
9. The provisions of Chapter 339.135(6)(a)(1999), Florida Statutes, are hereby incorporated:

"The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection shall be null and void, and no money may be paid on such contract. The department shall require a statement from the Comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than 1 year."
10. To the extent allowed by the Laws of Florida and pursuant to (1999) Florida Statute 768.28, each party hereby agrees to indemnify, defend, save, and hold harmless the other party from all claims, demands, liabilities, and suits of any nature arising out of, because of, or due to any negligent act or occurrence or omission or commission of the party, its agents, or employees.
11. This Agreement shall continue in effect and be binding on the parties until the PROJECT is completed, final costs are known, and appropriate reimbursements are made.
12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understanding applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understanding concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality of equal dignity herewith.

IN WITNESS WHEREOF, the COUNTY has caused this Joint Project Agreement to be executed in its behalf this 22nd day of MAY, 2002 authorized to enter into and execute same by a vote of the Leon County Commission on the 14th day of MAY, 2002, and the DEPARTMENT has executed this Joint Project Agreement through its Director of Production for District III, Florida Department of Transportation, this 7th day of June, 2002

LEON COUNTY, FLORIDA
(A political subdivision
of the State of Florida)

BY: [Signature]

TITLE

ATTEST:

BY: [Signature]

CLERK (SEAL)



APPROVED AS TO FORM:
LEON COUNTY

BY: [Signature]

COUNTY ATTORNEY

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: [Signature]

GENE MARTIN

DIRECTOR OF PRODUCTION

ATTEST:

BY: [Signature]

AMY L. PAULK

EXECUTIVE SECRETARY (SEAL)

APPROVED AS TO FORM:
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: [Signature]

W. EDWARD IVEY

SENIOR ATTORNEY

US90 Mahan RW Leon